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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

AYMAN LATIF, et al.,

Plaintiffs,

v.

ERIC H. HOLDER, JR., et al.,

Defendants.

Case No.: 10-cv-750 (BR)

**PLAINTIFFS' CROSS-MOTION
FOR PARTIAL SUMMARY
JUDGMENT**

Pursuant to Fed. R. Civ. P. 56

Request for Oral Argument

LR 7-1 CERTIFICATION

The parties made a good faith effort through telephone conferences to resolve the dispute pursuant to LR 7-1, and have been unable to do so.

CROSS-MOTION

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiffs move for partial summary judgment as to their procedural claims challenging the adequacy of Defendants' 2 – PLAINTIFFS' CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT

redress procedures for persons on the U.S. government's No Fly List under the Fifth Amendment of the Constitution and the Administrative Procedure Act.

The grounds for the motion are as follows: Plaintiffs are U.S. citizens who flew commercial airlines for years without incident until they were branded as suspected terrorists based on secret evidence and publicly denied boarding on flights. Each Plaintiff sought redress through the only available government process, but none has been told why he or she is on the No Fly List or given an opportunity to refute the basis for his or her inclusion. The indisputable record in this case shows that although inclusion on the No Fly List severely burdens Plaintiffs' constitutionally-protected liberty interests in travel and reputation, Defendants refuse to provide Plaintiffs constitutionally adequate notice or a hearing in violation of the Plaintiffs' right to procedural due process. The indisputable record in this case also shows that Defendants redress procedures violate the Administrative Procedure Act because they are unconstitutional and therefore contrary to law in violation of APA Section 706(2)(B), 5 U.S.C. § 706(2)(B), and constitute arbitrary and capricious agency action under APA Section 706(2)(A), 5 U.S.C. § 706(2)(A).

The grounds in support of this cross-motion are set forth more fully in Plaintiffs' Memorandum Points and Authorities in Support of Plaintiffs' Cross-Motion for Partial Summary Judgment; The Parties' Joint Statement of Stipulated Facts, ECF No. 84; the Declarations of Nusrat J. Choudhury, Faisal Nabin Kashem, Stephen Durga Persaud, Allah R. Rana, Nauman Rana, Salah Ali Ahmed, Ibraheim Y. Mashal, Nagib Ali Ghaleb, Steven William Washburn, Mohamed Sheikh Abdirahman Kariye, Ayman Latif, Mashaal Rana, Amir Meshal, Abdullatif Muthanna, Raymond Earl Knaeble IV, and Elias Mustafa Mohamed; and all other papers filed herewith.

Plaintiffs respectfully request that, if the Court rules for Plaintiffs, the Court should order subsequent briefing on the question of remedy. To rule on Plaintiffs' cross-motion, this Court does not have to decide now what process is specifically due.

Dated: March 22, 2013.

Respectfully submitted,

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